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EXAMINER

ESTRADA, ANGEL R

ART UNIT

PAPER NUMBER

2831

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/980,694	RADELET, CHRISTIAN
	Examiner Angel R. Estrada	Art Unit 2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 19 May 2003.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-9,11-15,19-22,26 and 27 is/are rejected.

7) Claim(s) 10,16-18 and 23-25 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)                    4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                    6)  Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-9, 11, 19, 21, 22, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gittle (US 4,743, 209) in view of Tribe (GB 599,354)

Regarding claim 1, Gittle discloses a closure casing (30) comprising: two co-operating closure members (33,34) having half-shell structures and having cable entry ports and defining an enclosed space between the closure members when in a juxtaposed closed position (see figure 3); a clamp that holds the closure members together in the closed position (see figure 3); but Gittle lacks said clamp comprises a toggle clamp mechanism. Tribe teaches a clamp (see figure 1) for securing together work pieces (30,31); comprising a toggle clamp mechanism (see figure 1), a first part (23,24) of which passes through openings in the work pieces (see figure 1 and 2); which are aligned when the work pieces (30,31) are in the closed position (see figure 1), and engages a face of one of the work pieces (30,31) remote from a second part (11) of the toggle clamp mechanism (see figure 1 and 2), which second part (11) is turnable between a clamped position in which tension is applied to the first part (23,24) and a release position (see figure 1-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Gittle's clamps with Tribe's

clamps to provide a clamp mechanism that can be operated easily by hand without using any tools.

Regarding claim 2, the modified Gittle discloses the closure casing (30), wherein at least one of the closure members (33, 34) has a resilient element (57) engageable by said toggle clamp mechanism (as taught by Tribe) and operable to apply a resilient resistance to hold the clamp mechanism (see figure 1 of Tribe) in the clamped position when the toggle clamp mechanism (see figure 1 of Tribe) is moved to the clamped position against a resistance exerted by the resilient element.

Regarding claim 3, Gittle discloses the closure casing (30) wherein the resilient element (57) comprises a laminar resilient strip (see figure 3) overlying a surface portion of the casing (see figure 4).

Regarding claim 4, Gittle discloses the closure casing (30) wherein said closure members (34,33) comprise co-operating half shells having respective flanges (335-38) around perimetral rims thereof, which rims are brought together when the casing is closed (see figure 3), and wherein said resilient element (57) comprises a strip and/or stringer lying along the length of at least one of the flanges (see figure 4).

Regarding claim 6, the modified Gittle discloses the closure casing (30), wherein the first part (23,24 of Tribe) of the toggle clamp mechanism (see figure 1 of Tribe) has a transverse projection (see figure 4 of Tribe) configured to engage the face of the closure member (as taught by Tribe) remote from the second part (11 of Tribe) of the toggle clamp mechanism.

Regarding claim 7, the modified Gittle discloses the closure casing (30) wherein there are a plurality of openings in the flanges (35-38) of the closure members (33,34) and a plurality of toggle clamp mechanisms (as taught by Tribe) spaced around at least part of a periphery of the closure members (see figure 3).

Regarding claim 8, Tribe teaches said toggle clamp mechanism (see figure 1), wherein said transverse projection (see figure 4) comprises a hooked end of the first part (see figure 4) configured to engage said face of the work piece (31) remote from the second part (11) of the clamp mechanism (see figure 1,2 and 4).

Regarding claim 9, Tribe teaches said toggle clamp mechanism (see figure 1) wherein said second part (11) of the toggle clamp mechanism (see figure 1) comprises a body portion having two parallel flanges (see figure 4) with respective aligned openings or cavities (see figure 4) for receiving respective pivot pins (19) of the first part such that the first part (23,24) is located between the two parallel flanges (see figure 4), and an operating tab and/or lever (also 11) that lies substantially parallel to a surface of one of the co-operating closure members when the toggle clamp mechanism (see figure 1) is in the clamped position (see figure 2).

Regarding claim 11, the modified Gittle discloses the closure casing (30) wherein there are a plurality of toggle clamps (as taught by Tribe) spaced along at least part of a perimeter of the casing (30) and further comprising a sealing member (57) located inwardly of the toggle clamps (as taught by Tribe) that seal the interior volume of the casing in the clamped position (see figure 10).

Regarding claim 19, Tribe teaches that the toggle clamp mechanism (see figure 1) has means (part of 11) for engagement by a tool whereby to assist in turning the second part of the toggle clamp mechanism (see figure 1 and 2).

Note: The means are part of lever (11), which can be engaged by a tool (such as pliers) to assist in turning the second part of the toggle clamp.

Regarding claim 21, Tribe teaches the claimed invention except for the first part (23,24) of the toggle clamp mechanism comprises a generally rectilinear element. It would have been an obvious matter of design choice to change the shape of the first part of the toggle clamp from cylindrical to a generally rectilinear element, since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. *Span-Deck Inc. V. FabCon, Inc.*, 215 USPQ 835.

Regarding claim 22, the modified Tribe teaches the toggle mechanism (see figure 1) wherein the first part (23,24) of the toggle clamp mechanism is substantially flat.

Regarding claim 26, the modified Gittle discloses the closure (30) wherein at least one toggle clamp mechanism (as taught by Tribe) can be positioned on an end of the closure members (30) having the cable entry port (see figure 1).

Regarding claim 27, the modified Gittle discloses the closure (30) wherein the toggle clamp mechanism (as taught by Tribe) contacts the resilient element (57).

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gittle (US 4,743, 209) in view of Tribe (GB 599,354) as applied in claim 4, and further in view of Cloud et al (US 5,631,993)

Regarding claim 5, the modified Gittle discloses the claimed invention except for the flanges having a cavity in which said resilient strip spans. Cloud discloses a closure casing (see figure 1) comprising a flange (24) having a cavity therein adjacent the openings in the closure members across which a resilient strip (46b) spans. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make Gittle's flanges with cavity as taught by Cloud to firmly secured the resilient strip.

3. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gittle (US 4,743, 209) in view of Tribe (GB 599,354) as applied in claim 1, and further in view of Giles (US 2,643,150)

Regarding claim 12, the modified Gittle discloses the claimed invention except for means to resist release of the toggle clamp mechanism. Giles discloses a toggle mechanism (see figure 1) having a first part (7,8) which passes through an opening (4) and a second part (6) with movable between an open and closed position (see figure 1-4); said first part (7,8) having means (9) to resist release of the toggle mechanism (column 3 line 29-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the modified Gittle's toggle mechanism with means to resist release of the toggle clamp mechanism as taught by Giles to provide

means that will firmly secured said toggle mechanism to said casing and prevent unauthorized tampering.

Regarding claim 13, Giles discloses the toggle clamp mechanism (see figure 1), wherein the means (9) to resist release of the toggle clamp mechanism (see figure 1) acts to resist movement of the second part of the toggle clamp mechanism from its clamped to its release position (see column 3 line 29-38).

Regarding claim 14, Giles discloses the toggle clamp mechanism (see figure 1) wherein the means (9) to resist release of the toggle clamp mechanism (see figure 1) resists withdrawal of the first part through the openings in the closure members (column 3 line 29-38).

Regarding claim 15, Giles discloses the toggle clamp mechanism (see figure 1), wherein the means (9) to resist release of the toggle clamp mechanism comprises at least one aperture in a member of the toggle clamp mechanism (see figure 1) engageable by cooperating removable obstruction means (column 3 line 29-38) for obstructing removal of the toggle clamp mechanism from the openings (see figure 1).

4. Claim 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gittle (US 4,743, 209) in view of Tribe (GB 599,354) as applied in claim 19, and further in view of Vogt et al (US 6,007,120)

Regarding claim 20, the modified Gittle discloses the claimed invention except for said means for engagement by a tool comprises at least one cavity in the second part of the toggle clamp mechanism. Vogt et al discloses a toggle clamp mechanism (10)

comprising a first part (18) and a second part (20); and means (see figure 4) for engagement by a tool (22) comprises at least one cavity (28) in the second part of the toggle clamp mechanism (see figure 4 and 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide to the modified Gittle with a cavity in the second part of the toggle clamp member for engagement by a tool as taught by Vogt et al to provide means that will facilitate the locking and the unlocking of the toggle clamp mechanism.

***Allowable Subject Matter***

5. Claims 10, 16-18 and 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reasons for the indication of the allowability of claims 10, 16-18 and 23-25 are:

Regarding claim 10 is the inclusion therein in combination as currently claimed of the limitation of said body portion of the second part of the toggle clamp mechanism has a face extending generally transversely of the operating tab and/or lever and serving as a release member against which is applied a force to release the toggle clamp mechanism from the clamped position.

Regarding claims 16-18 is the inclusion therein in combination as currently claimed of the limitation of said at least one resilient element is relatively displaceable with respect to an adjacent one of the closure members so as to reduce the effective

dimensions of the openings through which the first part of the toggle clamp mechanism passes whereby to obstruct withdrawal thereof.

Regarding claim 23 is the inclusion therein in combination as currently claimed of the limitation of the first part of the toggle clamp mechanism comprises an elongated rod having a T-shaped end.

Regarding claim 24 is the inclusion therein in combination as currently claimed of the limitation of wherein a pivotal interconnection of the second part of the toggle mechanism to the first part of the toggle clamp mechanism has a rotational midpoint spaced further from an engagement point of the toggle clamp mechanism with the face of one of the closure members that on either side of the rotational midpoint.

Regarding claim 25 is the inclusion therein in combination as currently claimed of the limitation of a toggle mechanism wherein the clamp does not project beyond an outline defined by the closure members in the closed position or the release position.

These limitations are found in claims 10, 16-18 and 23-25, and are neither disclosed nor taught by the prior art of record, alone or in combination.

### ***Response to Arguments***

6. Applicant's arguments filed May 19, 2003 have been fully considered but they are not persuasive.

a) In response to the Applicant's argument regarding claim 1, the applicant argues that the combination of Gittle in view of Tribe is improper because Tribe toggle clamp mechanism is for securing together temporarily, metal sheets or panels, which

are subsequently to be joined together by welding or riveting. The examiner disagrees because Tribe is only relied on the teaching of a clamp mechanism to secure together two workpieces. The clamp mechanism can substitute the studs and nuts joining mechanism of Gittle to join the closure members without using any tools. The applicant also argues that it is doubtful that the Tribe's clamp could be scaled down to a size that could even be used in the context of the Gittle's case. Examiner points out that a mere change in the size of a component is generally recognized as being within the level of ordinary skill in the art. *In re. Rose, 105 USPQ 237 (CCPA 1955)*.

b) In response to the Applicant's argument regarding claims 12-15, the applicant argues that there is no basis for combining the features of a latch ring closure as taught by Giles with either Tribe or Gittle. The Examiner disagrees because Giles is only relied on the teaching of a securing mechanism with means to resist release, said means is a simple opening at the end of the latch where a wire or a lock can pass to resist release; a similar opening can be made on Gittle's mechanism to avoid tampering the mechanism.

7. Applicant's arguments with respect to Claim 10 have been fully considered and are persuasive. The rejection of 10 has been withdrawn.

c) In response to the Applicant's argument regarding claim 10, The Examiner agrees with the applicants that neither Tribe nor the cited prior art discloses a body portion of a second part of the toggle clamp mechanism having a face extending generally transversely of the operating tab and/or lever and serving as a release

member against which is applied a force to release the toggle clamp mechanism from the clamped position.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (703) 305-0853. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for after final communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AE

August 4, 2003

*Dean A. Reichard 8/11/03*  
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